

REMARKS/ARGUMENTS

The Office Action of September 30, 2009, has been carefully reviewed and these remarks are responsive thereto. Claims 1, 3, 5-11, 13, 15-27 remain in this application. Claims 2, 4, 12 and 14 were previously canceled without prejudice or disclaimer. No new matter has been added. Reconsideration and allowance of the instant application are respectfully requested.

As a preliminary matter, and as discussed further below, the Office Action continues to fail to address the substance of Applicants' prior remarks. Applicants respectfully request the Office to address the substance of Applicants' prior remarks in order to provide Applicants with a more substantive basis for responding and in order to expedite the prosecution.

Interview

The undersigned would like to express appreciation to Examiner Rampuria for the courtesies extended during a telephone interview on December 17, 2009. Pursuant to MPEP § 713.04, the below includes Applicants' substance of interview.

Rejections under 35 U.S.C. § 103

Claims 1, 3, 5-11, 13, and 15-24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. publication no. 2003/0096622 to Moilanen ("Moilanen") and U.S. patent no. 6,252,543 to Camp ("Camp") in view of U.S. patent no. 6,873,852 to Koorapaty et al. ("Koorapaty"). Claim 25 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Moilanen, Camp, and Koorapaty, and further in view of U.S. publication no. 2001/0022558 to Karr, Jr., et al. ("Karr"). Claims 26-27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Moilanen, Camp, and Koorapaty, and further in view of U.S. patent no. 7,000,015 to Moore et al. ("Moore"). Applicants respectfully traverse these rejections.

Independent claim 1 is directed to a method for locating a mobile terminal within a mobile communication network. Claim 1 recites, among other features, "measuring a set of physical dimensions . . . the set of physical dimensions comprising any combination of physical dimensions selected from the group comprising signal power received by the mobile terminal starting from the base station, timing advance, observed time differences, and time of arrival,

generating, starting from said set of physical dimensions and respective functions, a global locating error function which has a minimum for values of said locating co-ordinates corresponding with the position occupied by said mobile terminal, [and] seeking the minimum of said error function by varying at least one of said locating co-ordinates.”

The Office Action at pages 2-4 correctly indicates that the alleged combination of Moilanen and Camp does not describe features related to generating, starting from a set of physical dimensions and respective functions, a global locating error function which has a minimum for values of locating co-ordinates corresponding with a position occupied by a mobile terminal, [and] seeking the minimum of the error function by varying at least one of the locating co-ordinates. The Office Action at page 4 contends that Koorapaty at col. 7, lines 36-65 (MMSE) remedies the deficiencies of Moilanen and Camp. Moreover, the Office Action at page 4 asserts that it would have been obvious to one of ordinary skill in the art to combine Moilanen and Camp with Koorapaty, and more specifically, to modify the alleged teachings of Moilanen and Camp to include the alleged teachings of Koorapaty “in order to provide a system and method of estimating the position of a mobile terminal in a radio telecommunications network.”

At pages 7-9 of Applicants’ “Amendment And Request For Reconsideration” filed February 17, 2009, Applicants discussed how Camp describes eliminating errors by way of a GPS correlator 50, and how one of ordinary skill in the art would not have had any apparent reason to generate a global locating error function and seek the minimum of that error function when the errors are eliminated by GPS correlator 50. Applicants incorporate those remarks herein by way of reference. Those same remarks were referenced at pages 3-4 of Applicants’ “Arguments In Support Of The Pre-Appeal Brief Request For Review” dated June 16, 2009. Notably, the Pre-Appeal Brief Conference Decision dated July 28, 2009, reopened prosecution, apparently based on the deficiencies of the prior rejections. As discussed during the interview, the Office’s proposed modification of Camp (and Moilanen) to include the alleged teachings of Koorapaty has been conducted on the basis of impermissible hindsight, given that Camp describes eliminating error by way of GPS correlator 50 as described above.

The Office Action at page 9 (“Response to Amendments & Remarks”) contends that Applicants’ arguments with respect to claims 1, 3, 5-11, 13, and 15-27, have been fully

considered but are moot in view of the new ground(s) of rejection. Applicants respectfully disagree. Indeed, as discussed during the interview, the Office continues to disregard the substance of Applicants' remarks regarding correlator 50 of Camp as discussed above. See MPEP § 707.07(f) (providing that where the applicant traverses any rejection, *the examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it*). In the event that the Office maintains a rejection of claim 1 based on Camp, Applicants respectfully request the Office to specifically address the substance of Applicants' remarks regarding correlator 50 described in Camp in order to provide Applicants with a more substantive basis for responding.

Independent claims 11 and 23 recite features similar to those described above with respect to claim 1. Claims 11 and 23 are allowable for at least reasons substantially similar to those described above with respect to claim 1.

The remaining claims are allowable for at least the same reasons as their respective base claims because any alleged combination that is formed using the additional references (e.g., Karr and Moore) is improper for at least reasons similar to those described above.

The Office Action at page 6 continues to simply cite to Moilanen at paragraph [0063] as allegedly teaching the features recited in claim 9. The Office Action provides no discussion whatsoever as to *how* the cited passage of Moilanen allegedly teaches or suggests interrupting an iterative process when an absolute distance between two successive points is below a determined threshold value as recited in claim 9. Indeed, it was Applicants' understanding that an agreement was reached during the interview held on February 11, 2009, that Moilanen failed to disclose the features recited in claim 9 for at least the reasons discussed at pages 10-11 of Applicants' "Response After Final Rejection" dated October 31, 2008, the contents of which are incorporated herein by way of reference. See pages 9-10 of Applicants' "Amendment And Request For Reconsideration" filed February 17, 2009; *see also* page 5 of Applicants' "Arguments In Support Of The Pre-Appeal Brief Request For Review" dated June 16, 2009. During the interview of December 17, 2009, the Examiner agreed that the $s(x)$ function described in Moilanen would **not** serve to indicate *when* to interrupt an iterative process as recited in claim 9. Accordingly, it was

agreed that claim 9 is distinguishable from the references for at least these reasons. Similar remarks apply with respect to claim 19.

CONCLUSION

If any fees are required or if an overpayment is made, the Commissioner is authorized to debit or credit our Deposit Account No. 19-0733, accordingly.

All rejections having been addressed, Applicants respectfully submit that the instant application is in condition for allowance, and respectfully solicit prompt notification of the same.

Respectfully submitted,
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